

Notice of Allowability

Application No.

09/980,620

Applicant(s)

OZEKI ET AL.

Examiner

Humera N. Sheikh

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 02/16/07.
2. ☒ The allowed claim(s) is/are 5-7,9,11,16-18 and 20-28.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


HUMERA N. SHEIKH
PRIMARY EXAMINER

TC-1600

DETAILED ACTION

Status of the Application

Receipt of the Amendment after Non-Final Office Action and Applicant's Arguments/Remarks, all filed 02/16/07 is acknowledged.

Claims 5-7, 9, 11, 16-18 and 20-28 are pending in this action. Claims 5, 21 and 27 have been amended herein. Claims 1-4, 8, 10, 12-15 and 19 have been cancelled.

Allowable Subject Matter

Claims 5-7, 9, 11, 16-18 and 20-28 are allowed.

The following is an examiner's statement of reasons for allowance:

The primary reasons for allowance are that the prior art (Ueda *et al.* – U.S. Pat. No. 6,831,103) does not disclose nor fairly teach or suggest the instant method of promoting sleep comprising administration of a capsule that includes L-theanine powder coated with gum arabic. The prior art fails to disclose or teach the particular forms and features now being claimed by Applicant.

In a telephonic interview held on 11/01/06 between Applicant's representative (Craig McRobbie) and myself (Examiner Sheikh), suggestions were made by the Examiner to amend claims 5 and 21 to include the limitation of a "capsule" whereby the composition comprises "L-theanine powder coated with gum arabic" to render the claims in condition for allowance.

Applicant has now adopted the suggestions previously presented by the Examiner and has amended the claims accordingly.

The instant invention demonstrates an improvement over the prior art in that it provides for a method for promoting sleep, by utilizing theanine, which can be safely taken on a daily basis without any risks of adverse action. The instant method can ameliorate an array of sleep disorders generated by various causations. Thus in view of the improvements demonstrated by the instant invention and the lack of teachings by the prior art, the instant invention is rendered *patentable* over the cited art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Humera N. Sheikh

Primary Examiner

Art Unit 1615

May 13, 2007


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TC-1600

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